

**TOWN OF SHELBURNE
PLANNING COMMISSION
MINUTES OF MEETING
July 14, 2022**

***Hybrid meeting.**

MEMBERS PRESENT: Steve Kendall (Chair); Deb Estabrook, Stephen Selin, Shawn Sweeney, Tom Karlhuber, Marla Keene. (Jean Sirois was absent.)

STAFF PRESENT: Adele Gravitz, Planning Director; Kristen Shamis, Town Attorney.

OTHERS PRESENT: Members of the public participating in the meeting included Persis Whorrall, Allyson Myers, Steve Crombach, Shelley Brandon, Peter Serisky, Robilee Smith, Rowland Davis, Ann Hogan, Nancy Badami, Kristin Foley, Media Factory Tracey Beaudin, Lee Suskin, Judith Raven, Donna Millay, Dan York, Dianna Davis, Steve Baietti, Joyce George, Mary Kehoe, Jim White, Michael Ashooh, Anne Bentley, David Webster, Greg Doremus, Kevin O'Brien, Allan Nathan,

AGENDA:

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (6/23/22)
4. Disclosures/Potential Conflicts of Interest
5. Open to the Public
6. Conversation: MRCD
7. Old Business
8. New/Other Business
9. Adjournment

1. CALL TO ORDER

Chair, Steve Kendall, called the meeting to order at 7 PM.

2. APPROVAL OF AGENDA

MOTION by Stephen Selin, **SECOND** by Shawn Sweeney, to approve the agenda as presented. **VOTING: unanimous (6-0); motion carried.**

3. APPROVAL OF MINUTES

June 23, 2022

MOTION by Stephen Selin, **SECOND** by Deb Estabrook, to approve the minutes of 6/23/22 as presented. **VOTING: 5 ayes, one abstention (Marla Keene); motion carried.**

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

None.

5. OPEN TO THE PUBLIC

None.

6. CONVERSATION: MRCD

Adele Gravitz summarized the issues identified by the consultant with Shelburne's form based code and in particular the Mixed Residential Character District including:

- The code not being predictable or reliable
- Desired outcomes are not clear
- None of the objectives of using form based code as a tool are found in the way the code is now written
- The code is very complex
- There is no process
- The standards are all over the place

Steve Kendall agreed there are many flaws in the code as it is now written and what can be developed is not consistent with the town plan or what was envisioned with form based zoning. Following further discussion, the Planning Commission agreed form based code as a whole needs to be reconsidered, but right now the focus is on the Mixed Residential Character District. An amendment is needed to remove this section from the overall form based code. The MRCD would then fall under the Mixed Use District of conventional zoning (a small portion by Webster Road would be zoned Residential). A public hearing must be held by the Planning Commission on the proposed amendment which is then forwarded to the Selectboard for discussion and another public hearing before taking action on the amendment.

There were comments/questions covering:

- Why an amendment is being proposed (because there are structural defects in the code, and it is not creating what the town wants)
- The amendment is targeting a particular project (the Selectboard tasked the Planning Commission with looking further into the Form Based Mixed Residential Character District and not at a particular project)
- Form based code in surrounding towns is usually in downtown areas or along the main road into town
- Many conversations with residents and consultants took place prior to deciding to implement Form-Based Code which was to promote and create community, not just commercial development.

MOTION by Stephen Selin, SECOND by Shawn Sweeney, to warn a public hearing to amend the Shelburne Road Form Based Overlay by removing the Mixed Residential Character District in its entirety.

DISCUSSION:

- **It was explained the area currently in the form based Mixed Residential Character District would revert to the Mixed Use zone under conventional zoning except for one small section by Webster Road that would become residential. The Planning Commission can**

begin discussion of what the town wants to see for development in the form based zone in the long term.

VOTING: unanimous (6-0); motion carried.

7. OLD BUSINESS

Update on Meetings with CBCs

Steve Kendall gave an update on the Planning Commission meeting with various Shelburne CBCs for input and thoughts on cleaning up the zoning regulations. The next meeting will be with the Shelburne Natural Resources Committee.

8. NEW/OTHER BUSINESS

Petition

Steve Kendall noted receipt of a petition signed by 358 registered voters requesting form based zoning in the Mixed Residential Character District be suspended until the town modifies the zoning regulations to clearly meet the stated intent and goals of the 2019 Shelburne Comprehensive Plan. According to legal advice on the matter and in discussions with VLCT, the Planning Commission has no authority to suspend the zoning regulations. The Planning Commission can only adopt, amend, or repeal bylaws.

MOTION by Steve Kendall, SECOND by Marla Keene, to reject the petition because the Planning Commission has no authority to suspend bylaws and therefore the petition is not valid or legally binding.

DISCUSSION:

- **Marla Keene requested holding a brief Executive Session on the petition. The Town Attorney advised a finding would be needed that the discussion in public session would be seriously detrimental to the town. Marla Keene asked if a technical correction is needed to the agenda since the signers were actually seeking an amendment, but did not know how to phrase this in the petition. The Town Attorney said in their opinion and the opinion of VLCT, this is beyond a technical correction. The petitioners can submit another petition to amend or repeal the zoning.**
- **Rowland Davis asked about a petition requesting interim zoning. The Town Attorney said this request would go to the Selectboard, not the Planning Commission.**
- **Ann Hogan thanked the Planning Commission for taking the next step with form based code and explained the reason the word “suspend” was used in the petition is because the Selectboard Chair mentioned the Planning Commission could do a pause or suspension.**
- **Nancy Badami recalled the Selectboard tasked the Planning Commission with a short- and long-term goal. The Planning Commission could as a short-term goal ask the Selectboard to enact interim zoning to pause development until October. [Steve Kendall pointed out the action being taken is a short-term action.]**
- **Pete Serisky noted that 75% of the people who signed the petition were aware of the situation and wanted a change.**

- **Adele Gravitz questioned why there was a petition submitted when the applicants and residents were working to come to a consensus. A resident explained the neighbors felt they had to take all available action. The first petition that was submitted electronically and had 853 signers was dismissed by the state as not valid so the current petition was filed.**

CALL THE QUESTION by Steve Kendall. Discussion ceased.

VOTING: unanimous (6-0); motion carried.

Discussion of the petition and amendment to the bylaw continued. The work by the residents and the project applicants to find a good solution for everyone was acknowledged. It was noted the petition was to get interim zoning passed to allow time to find a good answer to the situation. Zoning bylaws are established so people know what to expect with development. There was brief discussion of the public hearing process and timeline for both the Planning Commission and Selectboard to enact a change in zoning.

Steve Kendall expressed appreciation for all the community involvement.

9. ADJOURNMENT

MOTION by Stephen Selin, SECOND by Deb Estabrook, to adjourn the meeting.

VOTING: unanimous (6-0); motion carried.

The meeting was adjourned at 8:43 PM.

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